



U.S. Department of Agriculture



**Office of Inspector General
Midwest Region**

Audit Report

Monitoring of CACFP Providers in Minnesota

**Report No. 27010-0018-Ch
October 2005**



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Midwest Region

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OCTOBER 28, 2005

REPLY TO

ATTN OF: 27010-0018-Ch

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ATTN: Adele Greco
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FROM: /s/ John W. Pepper for Edward R. Krivus
Regional Inspector General

SUBJECT: Monitoring of CACFP Providers in Minnesota

This report presents the results of our audit of the Minnesota Department of Education's monitoring of CACFP providers in Minnesota. The Food and Nutrition Service's response to the official draft, dated October 20, 2005, is included in its entirety as exhibit E, with excerpts and the Office of Inspector General's position incorporated into the Findings and Recommendations section of the report.

Based on your response, we have reached management decisions on Recommendations 1, 2, 4 through 7, and 9 through 12. Correspondence regarding final actions should be addressed to the Office of the Chief Financial Officer. Management decisions have not yet been reached for Recommendations 3, 8, 13, and 14. Management decisions on these recommendations can be reached once you have provided us with the additional information outlined in the report section, OIG Position. If you have any questions, please contact me or have a member of your staff contact Dennis Boedigheimer, Assistant Regional Inspector General, at 312-353-1356.

In accordance with Department Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementation of those recommendations for which management decisions have not yet been reached. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance.

Executive Summary

Monitoring of CACFP Providers in Minnesota (Audit Report No. 27010-0018-Ch)

Results in Brief

This report presents the results of our audit of the Minnesota Department of Education's (State agency) monitoring of Child and Adult Care Food Program (CACFP) sponsors,¹ which are responsible for day care centers and home sponsors and their individual providers. Our objectives were to evaluate the State agency's program oversight efforts, emphasizing the implementation of several new rules issued by the Food and Nutrition Service (FNS) to address past program abuse. Our review found that the State agency lacked adequate controls to ensure that the sponsors and providers complied with key CACFP oversight requirements.

Our review found that neither the State agency nor the two sponsors we visited was prepared to fully implement the requirement for a new edit check to identify excessive meal claims, which is required to be in place by October 1, 2005. Although the State agency's automated meal claim system, called Cyber-Linked Interactive Child Nutrition System (CLICS), included edit checks, we determined that the existing edit checks were not designed to detect questionable claims by the majority of providers.

We also found that the State agency and two of its ten sponsors did not properly implement other key components of the new FNS rules. Specifically, the State agency did not develop its own process for dealing with seriously deficient sponsors or evaluate whether its sponsors adhered to the new outside employment criteria. In addition, the State agency did not make the household contact policy, to verify a child's participation in the program, an integral part of its oversight process. Thus, as implemented by the State agency, the new rules may not be effective in detecting and preventing program abuse.

Finally, our review found that the State agency needs to improve its general oversight of CACFP sponsors and providers. For example, the State agency did not complete required onsite reviews of all centers and home sponsors, including those that submitted the greatest number of claims. The State agency also did not assess whether sponsors' monitoring staff conducted effective provider home visits. Lastly, our review found that the State agency did not establish itself as a key player during the investigation and subsequent fraud conviction of four providers that were overseen by one of its sponsors. As a result, the State agency did not promptly secure and return to FNS over \$265,000 in court-ordered restitutions for fraudulent provider activities.

¹ CACFP regulations define sponsoring organizations as those responsible for administering the program in one or more day care homes or child care centers.

**Recommendations
In Brief**

To improve oversight of CACFP sponsors, we recommend that FNS require the State agency to develop procedures, or amend its existing procedures, to comply with the new rules. Specifically, the State agency needs to provide FNS with its procedures and timeframes for implementing the new edit check, and to amend existing edit checks to better identify erroneous claim data. In addition, the State agency needs to amend its procedures and issue guidance to its sponsors in regard to the new serious deficiency process, the outside employment policy, the household contact policy, and monitoring staff levels. Finally, the State agency needs to improve its overall internal review process and to collect the \$265,347 in Federal funds resulting from court-ordered restitutions.

Agency Response

In its response to the official draft report, dated October 20, 2005, FNS agreed with all recommendations, except for Recommendation 8. We have incorporated applicable portions of the FNS response, along with our position, within the Findings and Recommendations section of the report. The FNS response is included in its entirety as exhibit E of this audit report.

OIG Position

Based on FNS' response, we have reached management decisions for Recommendations 1, 2, 4 through 7, and 9 through 12. Requirements for Final Action are listed under OIG Position for each recommendation within the Findings and Recommendations section of the report. Management decisions on Recommendations 3, 8, 13 and 14 can be reached once FNS has provided us with the additional information outlined in the report section, OIG Position.

Abbreviations Used in This Report

ADA	Average Daily Attendance
CACFP	Child and Adult Care Food Program
CFR	Code of Federal Regulations
CLICS	Cyber-Linked Interactive Child Nutrition System
FNS	Food and Nutrition Service
FTE	Full-time Equivalent
OCFO	Office of Chief Financial Officer
OIG	Office of Inspector General
SDL	Seriously Deficient List
USDA	United States Department of Agriculture

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Background and Objectives

Background

The Child and Adult Care Food Program (CACFP), which is administered by the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS), was designed to ensure that children and adults in day care facilities receive nutritious meals.² The FNS regional offices, through State agencies and contracted centers and home sponsors, provide oversight of participating day care facilities. Center sponsors³ and home sponsors⁴ enter into agreements with the State agency to assume administrative and financial responsibility for CACFP operations at individual child and day care facilities.

As the State agency for CACFP in the State of Minnesota, the Minnesota Department of Education has direct responsibility for program operations, including guarding against fraud and abuse. During fiscal year 2004, the State agency claimed over \$50 million for meal reimbursements, commodities, and State administrative expenses.

According to Federal Regulations⁵ the State agency must, at a minimum, (1) conduct periodic reviews of centers and home sponsors to ensure compliance with program requirements, (2) take corrective action on any deficiencies and internal control problems that are found and ensure corrective actions are completed, and (3) review and verify that monthly reimbursement claims are valid. To comply with these requirements, the State agency's procedures specify that onsite reviews should be conducted once every three years at centers and every two years at home sponsors, including visits at a sample of provider homes. The State agency's process involves issuing formal reports to centers and sponsors describing needed corrective actions, which State agency officials are to monitor to ensure correct and timely implementation. Finally, to ensure monthly meal claims are valid, the State agency processes center and sponsor claims using an automated online system, called the Cyber-Linked Interactive Child Nutrition System (CLICS).

The CLICS software contains edit checks that help detect meal claim errors and prevent payments for claims that exceed certain limits. The CLICS system is completely automated in that center and sponsor claims are submitted online, run through a series of edit checks, and, if no errors are detected, payment is automatically authorized. However, if an error or errors are detected in a claim,

² CACFP is authorized through section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et. seq.), with program requirements listed under Title 7, Part 226 of the Code of Federal Regulations (CFR). In June 2000, the Agricultural Risk Protection Act (Public Law 106-224) was further amended to include a number of additional provisions to the National School Lunch Act and the Child Nutrition Act of 1966.

³ CACFP regulations define a center as a child care center, an adult day care center, or an outside-school-hours care center. For the purposes of this audit report, the term "center" refers only to child care centers, except where separately noted.

⁴ CACFP regulations define sponsoring organizations as those responsible for administering the program in a day care home(s) or center(s). In this report, the term "sponsor" pertains only to organizations responsible for day care homes, except where separately noted.

⁵ 7 CFR 226.6 (m)(1) and (6) and 7 CFR 226.7 (k).

it is rejected and the sponsor must make the State-recommended corrections before it re-submits the claim and CLICS authorizes payment.

In fiscal year 1999, the Office of Inspector General (OIG) issued a report on the results of a Presidential Initiative known as Operation Kiddie Care. OIG reported that the rules for CACFP had to change in order to reduce the widespread fraud perpetrated by program participants. In response to that report, FNS issued management improvement guidance and pursued regulatory changes to better prevent and detect program abuse. Starting in fiscal year 2002, FNS initiated program changes designed to strengthen CACFP operations and monitoring at the State agency and sponsor levels. The first phase of program changes was to be implemented by the end of FY 2003 and included the following provisions:⁶

- Sponsors must limit outside employment by employees that interferes with their program-related responsibilities and duties.
- Sponsors must employ the appropriate number of monitoring staff based on the number of centers and homes under their authority, and start conducting unannounced visits.
- State agencies must maintain a list of program participants found to have serious program deficiencies. If corrective actions to fix those deficiencies are not addressed, State agencies must take action to remove the violators from the program.
- Home sponsors are required to perform a minimum of two unannounced reviews per provider annually, and to perform an average of three provider visits per year.

Additional program changes were to be implemented by State agencies, sponsors, and home providers in various stages by October 1, 2005. The required program changes and implementation dates include:

- State agencies and home sponsors must make household contacts to verify CACFP enrollment and attendance. (April 1, 2005)
- Home sponsors must perform an unannounced visit if a provider claims the same number of meals for 15 or more consecutive days, which is known as a block claim. (October 1, 2005)
- State agencies must perform an edit check of providers' claims to identify claims that exceed participant enrollment times operating days times number of approved meal types. (October 1, 2005)

⁶ The provisions were published in the Federal Register Volume 67, No. 124, dated June 27, 2002, and Volume 69, No. 169, dated September 1, 2004, respectively, and incorporated into the Federal Regulations 7 CFR 226, dated January 1, 2005.

Objectives

The objective of the audit was to evaluate the Minnesota State agency's monitoring of CACFP sponsors, particularly the State agency's implementation of program changes made since fiscal year 2002 to prevent and detect program abuses.

Findings and Recommendations

Section 1 New Edit Checks To Prevent and Detect Excessive Provider Claims

Previous OIG audits and investigations have reported that CACFP home providers were reimbursed for meals claimed for absent and nonexistent children. To assist in determining whether a provider's claim is valid, FNS required State agencies to implement an edit check that would limit providers' claims based on their approved meal types. Our review disclosed that the State agency was not prepared to implement the new edit check, which will necessitate changes to both the sponsors' and State's computer systems and the collection and input of approved meal type data for over 10,000 providers. Our review also disclosed that other edit checks the State previously implemented were set at limits too high to successfully detect questionable claims from the majority of providers.

Another new CACFP rule requires sponsors to implement an edit check designed to detect suspicious provider claims, called block claims. A block claim occurs when a provider claims the same number of meals every day for an extended period of time. Once detected, a block claim must be further investigated. However, our review at two home sponsors disclosed that neither sponsor made an unannounced visit to a provider's home upon identifying a block claim. Unless the State agency and its sponsors implement the new edit checks as required, the type of fraud documented in past audits and investigations may continue to go undetected and undeterred.

Finding 1

State Agency Needs To Implement New Edit Check

The State agency's meal claim system, CLICS, did not include a new edit check designed to detect excessive claims. Furthermore, the State agency's current edit checks were not capable of detecting excessive claims by the majority of providers. The State agency had not developed a plan to implement the new edit check, nor had it established reasonable limits for its existing edit checks. As a result, the State agency was unable to determine whether all provider claims were valid before authorizing payment.

By October 1, 2005, the State agency must implement a new edit check, which sets the maximum provider reimbursement at enrollment times serving days times approved meal types. Our review of CLICS disclosed that it contained data on enrollment and serving days for each provider, but it was not designed to accept or use a provider's approved meal types. We found that providers' approved meal types are documented on their applications, which are generally maintained by the sponsor in paper form. Therefore, even if CLICS was able to

accept the providers' approved meal types, the State agency would still have to require its 10 sponsors to update their computer systems to accept the new data, and then physically enter the approved meal types for over 10,000 providers. State agency officials informed us that they have not planned or discussed the changes that will be needed to CLICS to implement the new edit check.

Existing Edit Checks Ineffective

Prior to the new edit check requirement, the State agency installed several edit checks in CLICS to prevent and detect excessive provider claims. Two of the edit checks compare provider claim data to certain maximum levels, as set by the State, and reject a provider's monthly claim if (1) the number of serving days is greater than 50 days, and (2) the average daily attendance is greater than 42 children. Our review of these two edit checks disclosed that the limits were set too high to identify errors in a provider's claims.

Maximum serving days per month set at 50 days

One of the edit checks in CLICS rejects a provider's claim if the number of serving days is greater than 50. Our analysis of claim data from August 2004 to January 2005 for over 10,000 day care homes disclosed that most providers claimed far less than 50 serving days. As indicated in Figure 1 below, the edit check for maximum serving days was set at a level too high to detect and prevent excessive claims by a majority of providers, since 96 percent of providers claimed 24 or fewer serving days.

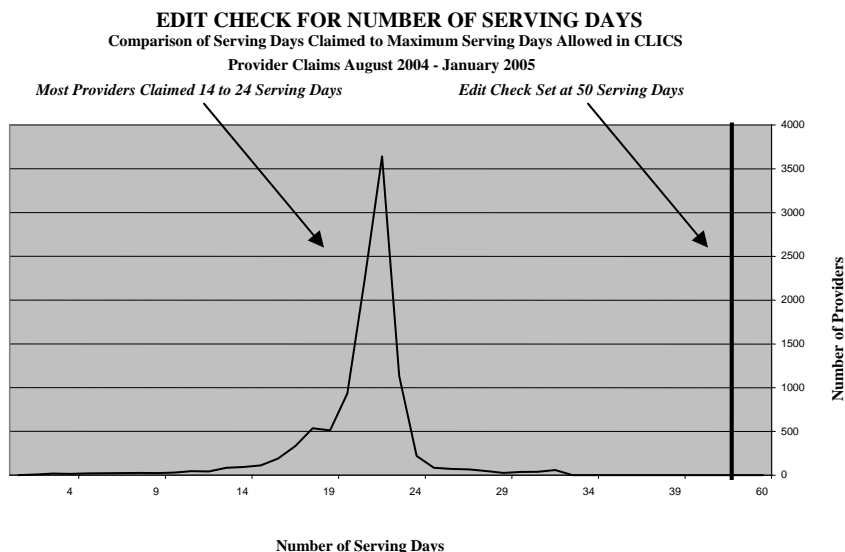


Figure 1

According to State agency officials, the 50-day maximum was established to account for providers that started or ended service during one month but wanted to claim those meals with the previous or next full

month's claim. Our analysis of 6 months' worth of claim data showed that 65 providers claimed more than the number of days in a month, with the highest claim being 42 serving days. However, none of those 65 providers' claims were detected by CLICS because they did not reach the 50-day maximum. By adjusting this edit check to a more reasonable limit (between 25 and 31 days), the State agency could still process the majority of provider claims and detect claims that need to be further investigated.

Maximum average daily attendance set at 42 children

The other CLICS edit check we reviewed set the maximum average daily attendance (ADA) allowed per provider at 42 children. Based on Minnesota's maximum license capacity of 14 children⁷ times 3, the maximum number of shifts per provider, the State agency's edit check allows a maximum ADA of 42 children (14 children x 3 shifts per day). However, in setting the maximum ADA at 42 children, the State agency did not take into account the license limits or the meal shifts used by the majority of its providers. As indicated in Figure 2 below, our analysis disclosed that most providers had an ADA of 15 children or less. Also,

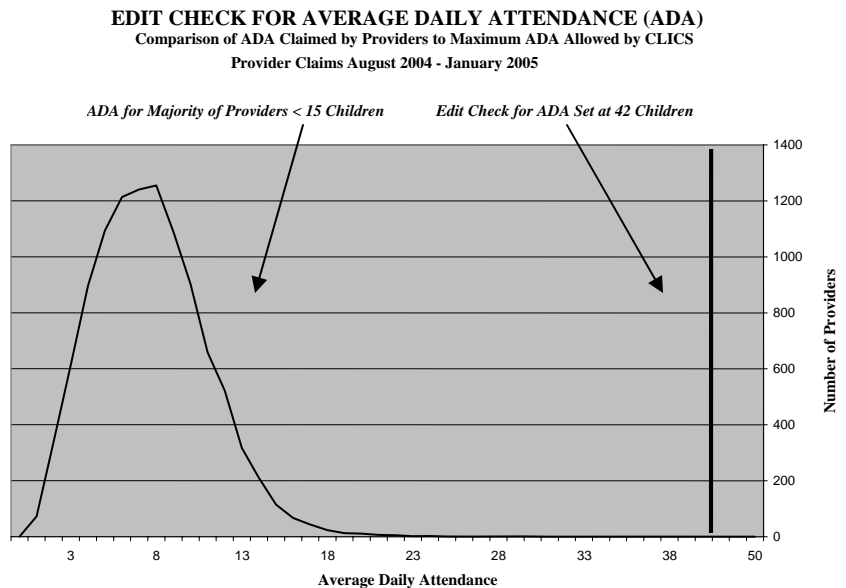


Figure 2

on average, 80 percent of all providers had a licensed capacity below the maximum licensed capacity of 14 (the remaining 20 percent of providers had the maximum of 14). We also found during our home visits to 25 providers that 3 shifts per meal was a rare occurrence; 96 percent of the providers we visited served less than 3 shifts, which meant they operated at less than or equal to their licensed capacity. By limiting

⁷ Minnesota's maximum license capacity is 10 children for one adult, but allows up to 14 children per home if there is another adult present.

providers' claims to their individual license capacities, the State agency could still process a majority of the claims and also identify providers whose claims need to be further investigated.

Despite the edit check problems we identified, our review disclosed that the State agency relied heavily on CLICS without ensuring that the system's controls were sufficient to identify all claiming errors. In a discussion with State agency officials, they admitted that they did not review provider claim data generated by the system because the main purpose of CLICS is to automate the claims process. The State agency's lack of involvement in the claims review process means that claiming errors are not analyzed for State-wide trends. In fact, a State agency official stated that CLICS automatically overwrites the original errors identified through the system edit checks once a sponsor corrects and resubmits its providers' claims. Therefore, valuable sponsor and provider data that could be used to identify trends in program deficiencies is lost every month.

We concluded that the State agency can improve its claims review process by setting reasonable limits on its current edit checks, developing and implementing the new edit check by October 1, 2005, and analyzing CLICS data to identify State-wide trends.

Recommendation 1

Require the State agency to provide FNS with their procedures and timeframes for implementing the new edit check.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency will revise provider applications by June 1, 2006, to include the data necessary for the new edit check. By October 1, 2006, the State agency will revise its CLICS system to perform the new edit check.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the new edit checks have been implemented.

Recommendation 2

Require the State agency to establish reasonable limits for the existing edit checks in CLICS.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency revised its edit checks for the number of serving days from 50 to 31 days, and the average daily attendance from 42 to 25-30 children. In addition, by March 1, 2006, the State agency will implement improvements to CLICS to perform better analyses of claim data to ensure program integrity.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency implemented more reasonable limits for their existing edit checks in CLICS.

Recommendation 3

Require the State agency to establish procedures to retain and use CLICS data to identify trends and implement appropriate followup and corrective actions.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency will use CLICS data to conduct analyses of monthly provider claims, identify trends, and implement appropriate followup and corrective actions. By October 1, 2007, the State agency will revise CLICS to retain and record data previously overwritten by new data.

OIG Position.

To reach management decision, FNS needs to provide us with an interim measure and timeframe (12 months or less) that would describe the State agency's retention of data errors from CLICS for subsequent analysis, followup, and corrective actions.

Finding 2**Sponsors Did Not Implement Block Claim Edit Check Process Correctly**

The two home sponsors we reviewed omitted a key component of the new block claim edit check process. A block claim is an indicator of claiming irregularities and, once detected, it must be investigated further. However, neither sponsor made an unannounced visit to the provider's home when they first identified a block claim. Until sponsors develop adequate procedures to implement the new block claim edit check process, they will be less likely to detect and deter fraudulent meal claims.

FNS published an interim rule in September 2004 requiring sponsors to develop a block claim edit check process, with full implementation required by October 1, 2005. FNS defines a block claim as the same number of meals claimed for one child and one meal type (i.e., breakfast, lunch, snack, or supper) for 15 consecutive days within a claiming period. Once a block claim is identified, a sponsor must conduct an unannounced visit to the provider's home within 60 days.

Our review of the block claim edit check procedures for two sponsors found that neither of the two required an unannounced review when a block claim is first identified. Instead, after the initial detection of a block claim, the first sponsor's procedures called for sending a warning letter, explaining what a block claim is and advising against submitting a block claim in the future. Only when a provider submits a block claim for two consecutive months would the sponsor conduct an unannounced review. The sponsor developed its written procedures for block claims before the new rule required that an unannounced visit be conducted after the first block claim.

The second sponsor had not documented its block claim edit check process at all. Sponsor officials stated that they were waiting for guidance from the State agency before they documented and implemented the block claim edit check process. Although the State agency provided training to its ten sponsors on the new block claim edit check process in January 2005, it did not follow up to ensure that the sponsors implemented the process correctly.

Proper implementation of the new block claim edit check is key to the sponsors' detection of suspicious provider claims. In a discussion with a State agency official, they stated that they assessed the sponsors' implementation of the new rules during the onsite review process. However, our review of the State agency's onsite review forms and reports did not find a single reference to the new rules. We concluded that, since both of the sponsors we reviewed failed to properly implement the new program requirements, the State agency needs to

evaluate its remaining eight sponsors for compliance in the area of block claim edit checks.

Recommendation 4

Require the State agency to monitor its home sponsors to ensure that they implement the required elements of the new block claim edit check process, which must include an unannounced visit to the provider's home within 60 days of identifying a block claim.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency will revise its daycare home Sponsor's management plan checklist, by January 1, 2006, to include the disclosure of procedures for edit checks and block claims. The State agency will ensure that a Sponsor's management plan will meet the minimum requirements of the block claim edit check process prior to approving of the plan.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency implements additional procedures to monitor its home sponsors and verify the adequate implementation of the new block claim edit check process.

Section 2 New Requirements To Improve Program Integrity

FNS designed the new CACFP rules to improve program integrity while allowing State agencies flexibility in implementing them. Our review found that the State agency and sponsors did not fully comply with three of the new rules, two of which were to be implemented in 2003. Specifically, the State agency adopted FNS' new serious deficiency process without documenting its criteria for taking action against seriously deficient sponsors and providers. Also, the State agency did not ensure that its sponsors adhered to FNS' new outside employment policy. Finally, the State agency did not make the household contact policy, to verify a child's participation in the program, an integral part of its oversight process. In order to improve program integrity and increase detection of program abuse, the State agency needs to fully implement the new rules—and ensure that its sponsors do the same.

Finding 3 State and Sponsors Need To Fully Implement the Serious Deficiency Process

In June 2002, FNS issued new rules for the State agency and its sponsors to follow when determining whether a program participant is seriously deficient. The new process requires the State agency and sponsors to determine based on the magnitude and frequency of violations—such as false claims and incomplete meals—whether a center, home sponsor, or provider should be included on a Seriously Deficient List (SDL). Our review disclosed that the State agency adopted the new FNS rule without developing written procedures for the serious deficiency process. As a result, daycare centers and providers repeatedly violated program requirements without being placed on the SDL.

During an assessment of the State agency's program oversight, the FNS regional office noted that the State agency identified three daycare centers as repeat program violators but did not place them on the SDL. The State agency's review results for those three centers disclosed repeated counting and claiming problems and failure to meet meal pattern requirements. However, according to an FNS regional official, the centers were not placed on the SDL because the State agency followed the old rules for the serious deficiency process, which did not allow a participant time for corrective actions when they were assessed as seriously deficient. Since the new serious deficiency rule went into effect in fiscal year 2002, the State agency had placed just 2 of its over 300 centers on the SDL.

Because the State agency failed to issue specific guidelines, the two home sponsors we reviewed also could not to assess whether providers who repeatedly

violate program regulations should be placed on the SDL. At the two sponsors we visited, we reviewed 40 providers' meal claim forms to determine if any adjustments were made to the original claim amounts. We determined that the sponsors had reduced the original claim amounts submitted by 19 of those 40 providers for more than one year, with 11 of those 19 providers claiming meals that did not meet meal pattern requirements. Our review also disclosed that one of the two sponsors had identified, through household contacts, another 17 providers that claimed children that were not in their care. However, none of the 36 (19+17) providers were placed on the SDL. Officials from both sponsors stated that the State agency trained them on the new serious deficiency process and provided examples of seriously deficient providers; however, the State agency allowed the sponsors to decide when to place a provider on the SDL.

We concluded that the State agency did not develop its own procedures or provide sufficient guidance to its sponsors for identifying seriously deficient providers. When we requested the State agency's procedures, officials provided us with FNS' training slides as documentation of their process. However, we determined that the documentation was not sufficient to provide adequate guidance to its staff in identifying a sponsor or a provider as seriously deficient. Until the State agency develops its serious deficiency procedures, both it and its sponsors have no standard to use in identifying seriously deficient providers.

Recommendation 5

Require the State agency to develop and implement a written policy for its serious deficiency process for its sponsors to follow that, at a minimum, provides examples that would result in a serious deficiency declaration.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency has drafted serious deficiency procedures. In addition, the State agency will require, by December 15, 2005, daycare home sponsors' input on specific criteria for declaring providers as seriously deficient. A final written policy for sponsors to follow in declaring providers seriously deficient will be completed by January 30, 2006, with implementation by March 1, 2006.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency developed and implemented a written policy for the serious deficiency process.

Recommendation 6

Require the State agency to assess its sponsors' implementation and use of the new serious deficiency process.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency will assess daycare home Sponsor's actual implementation of the serious deficiency process during its regular review process. The State agency's assessment of their sponsors' implementation of the serious deficiency process will begin on March 1, 2006.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency has the procedures in place to adequately assess a sponsor's use of the new serious deficiency process.

Finding 4

Sponsor's Outside Employment Policy Needs To Be Amended

To help guard against real and apparent conflicts of interest, a new FNS rule requires sponsors to develop an outside employment policy. The policy should specifically restrict any outside employment that constitutes a real or apparent conflict of interest. However, the outside employment policy developed by one of the two sponsors we reviewed did not address the members of its board of directors. The State agency approved the sponsor's policy without ensuring it addressed all members of the sponsor's organization. As a result, providers held a majority of the positions on the sponsor's board—a real conflict of interest. One of the ways in which a sponsor can guard against fraud and abuse is through a board of directors who are independent of the employees and day care home providers they direct. FNS guidance states that a majority of the sponsor's board should be comprised of community members who are not financially interested in the board's activities and are otherwise independent and accountable.⁸

Our review disclosed, however, that one sponsor's outside employment policy allowed employees and providers to hold seven of the eight board positions, six of which were filled by providers. Since the sponsor's board of directors makes decisions affecting day care home providers and sponsor employees, using individuals in these dual roles represents a real conflict of interest. As providers, the board members had a definite financial interest in the organization because

⁸ FNS Management Improvement Guidance for Daycare Home Sponsors, September 1999.

they received meal reimbursements through the sponsor. Also, the providers were not independent because they were under the direction of the program director, while at the same time having the voting power to approve or disapprove individuals for that position.

Although the State agency was aware of the sponsor's practice of using mostly providers and employees in dual roles—which is contrary to both the new rule⁹ and previous FNS guidance—it did not require the sponsor to change its policy. Instead, the State agency recommended that the sponsor contract with another sponsor to review the providers that served on the board, to which the sponsor agreed. Also, the sponsor changed its policy to prohibit providers from holding the board positions of treasurer and program director. However, the conflict of interest remained with a majority of the board members, including president and vice-president.

To prevent a real or apparent conflict of interest, the State agency must ensure that all of its sponsors have properly developed and implemented an outside employment policy that addresses the need for an independent board of directors. Until the State agency takes action in this regard, the sponsors' boards of directors may not fulfill their purpose of detecting and preventing program abuse.

Recommendation 7

Require the State agency to review all sponsors' outside employment policies, written compensation plans, and professional service contracts, to ensure they address and disclose conflict-of-interest, with all affiliates (employees, contractors, and board members) of the organization.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency amended its daycare home Sponsor's management plans to require disclosure of its outside employment policy. The State agency will review a sponsor's policy as part of the annual application process and verify the sponsor's adherence to that policy during its regular monitoring process. The State agency plans to implement their new process by March 1, 2006.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency has implemented its process to review all sponsors' outside employment policy.

⁹ 7 CFR 226.6 (b)(16)

Recommendation 8

Require the State agency to review all sponsors' current board members to ensure that a majority are individuals from the community with no financial interest in the board's activities and are otherwise independent and accountable.

Agency Response.

In its response, dated October 20, 2005, FNS stated that they expressed their disagreement to this recommendation in previous meetings and maintain that they cannot require the State agency to undertake action not required by 7 CFR 226 regulations. As an alternative, FNS proposed that it require the State agency to implement the regulatory requirements identified in 7 CFR 226.6 (b)(2)(vii)(C)(1), which would require the State agency to ensure a sponsor's board of directors provides adequate oversight of the Program. In addition, FNS will require the State agency to demonstrate how they will evaluate the board of directors' Program oversight, which includes an evaluation of a board of director's independence, conflict of interest, and less-than-arms-length transactions.

OIG Position.

We have no record of FNS' disagreement to this recommendation. This recommendation specifically reflects suggestions provided by FNS at a meeting held earlier this year. In September 1999, FNS issued nationwide guidance to State agencies and sponsors to use in conjunction with the regulations to improve performance of existing sponsors and to ensure that only well qualified potential sponsors are initially approved, and our recommendation follows that guidance. Since we cannot reach management decision, FNS officials need to elevate this issue to the National Office for guidance.

Finding 5

State Agency Needs To Amend Its Household Contact Policy

FNS published a new rule, dated September 1, 2004, that required State agencies to establish a household contact policy. However, the State agency's policy on household contacts does not emphasize household contacts as a part of their sponsor and provider reviews. As a result, the State agency has yet to perform any household contacts, which could help it assess the extent of program abuse or identify potentially fraudulent meal claims.

Federal regulations¹⁰ stipulate that State agencies were to establish household contact policies by April 1, 2005. This policy was to include procedures

¹⁰ 7 CFR 226.6 (m)(5)

governing household contacts conducted by both the State agency, as part of its sponsor and provider reviews, and by its sponsoring organizations. The purpose of household contacts is to verify a child's participation in the program by contacting the child's parent.

Based on our review of its household contact policy, we found that the State agency does not use household contacts as a part of its sponsor and provider reviews. Instead, the State agency's policy is to make household contacts only when questioning a sponsor's capability to investigate inaccurate or fraudulent provider claims. We found that the State agency did not make parental contacts even when its own provider visits suggested they were necessary. For example, all eight sponsor reviews the State agency completed in fiscal years 2003 and 2004 disclosed that children normally in the providers' care were missing on the day of the provider visits.

We concluded that the State agency did not implement an effective household contact policy since it was not a required part of its overall review process. An effective household contact policy might have identified providers that were committing fraud or at least identified other suspicious claims from those providers. (See Finding 8.) However, until the State agency makes household contacts part of their review process, FNS has no assurance that the State agency would be able to detect and deter the type of fraud as documented in past audits.

Recommendation 9

Require the State agency to amend its household contact policy to include parental contacts as a method of verifying the attendance and enrollment of participating children during its monitoring of sponsors and its providers.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency will amend its household contact policy to more clearly delineate its use of household contacts during sponsor and provider reviews. The State agency will implement their amended household contact procedures by March 1, 2006.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency has implemented its amended household contact policy.

Section 3 State Agency's Oversight of the CACFP

The State agency is responsible for administering CACFP, including monitoring participating sponsors. However, several aspects of the State agency's oversight process need improvement. For example, the State agency did not ensure that all reviews were completed as part of its onsite review process. The State agency also did not assess whether sponsors' monitoring staff were conducting effective provider home visits. Finally, the State agency did not establish itself as a key player during the investigation and subsequent conviction of four providers at one of its sponsors, resulting in its failure to secure and return to FNS over \$265,000 in court-ordered restitutions for fraudulent provider activities.

Finding 6

On-Site Review Process for Centers and Home Sponsors Needs Improvement

The State agency did not complete the required on-site reviews of all day care centers and home sponsors, and for the reviews completed, they did not always ensure that all corrective actions were addressed. With the reorganization of State agency management in 2004, there was minimal oversight of the review process and they have not yet amended review procedures to ensure staff responsibilities were clearly defined. Therefore, the State agency's review teams were left to complete all phases of the process without adequate supervision. As a result, the State agency did not review 3 of its 10 highest-claiming centers and 2 of its home sponsors—responsible for nearly 20 percent of all home providers.

Federal regulations¹¹ require the State agency to review home sponsors with more than 100 facilities at least once every 2 years, and centers at least once every 3 years.

Day care centers and sponsors not reviewed, deficiencies not always addressed

The State agency did not fulfill its oversight responsibility to review all centers at least once every three years. We selected 10 of the over 300 centers that submitted meal reimbursements in the highest dollar amounts in 2004. We determined that the State agency did not review 3 of the 10 highest-claiming centers¹² in over 6 years. In addition, for one of the seven center reviews that were completed, the State agency did not have a copy of the center's response to the review findings, which included deficiencies such as claiming children not present and meals that did not meet meal pattern requirements. As a result, we

¹¹ 7 CFR 226.6(m)(4)(i) and (ii).

¹² The term "center" in this context, refers to center sponsors that may include additional child care centers under one sponsorship.

were unable to determine whether the one center adequately addressed all corrective actions for that review.

Similar to its oversight of centers, the State agency did not fulfill its oversight responsibility for its 10 home sponsors. Each sponsor covered between 100 and 5,000 homes, meaning that all 10 sponsors should have been reviewed at least once every 2 years. However, we determined that two of the ten sponsors were not reviewed at all during fiscal years 2003 and 2004. In addition, of the eight sponsor reviews that were completed during those years, three of the review reports were not issued within 60 days.¹³ As a result, sponsors continued to violate program requirements, one for more than 5 months, without taking the required corrective actions. (See table below).

SPONSOR REVIEWS SCHEDULED or PERFORMED			
Sponsor Name	Sponsor Visit Date ¹⁴	Report Issue Date	Elapsed Days
1. Adults & Children Alliance	02/28/2004	08/20/2004	173
2. CCRR, Inc.	12/31/2003	02/04/2004	35
3. MLFCCA	09/30/2004	11/12/2004	43
4. CCNI	09/30/2004 ¹⁵	NOT ISSUED	-
5. Child Care Choices	08/31/2004 ¹⁵	NOT ISSUED	-
6. Children Advocate Program, Inc.	08/28/2003	09/11/2003	14
7. Providers Choice, Inc.	08/12/2003	10/29/2003	78
8. Wilder Family CCN	01/31/2003	02/27/2003	27
9. Scope Resource Center	11/30/2002	12/31/2002	31
10. Prime Providers, Inc.	09/17/2003	12/23/2003	97

According to State agency officials, a verbal explanation of findings is given to the sponsors before they leave the site, but review reports are not issued until the sponsor provides evidence that all corrective actions have been addressed. However, one sponsor informed us that the delay in the State agency's reporting makes it very difficult to collect overclaimed meals from providers. This sponsor stated that the State agency's report, identifying the provider name and date of visit, is the evidence they need to notify providers of observed program violations and to seek reimbursement.

In other cases, we determined that the State agency issued review reports without ensuring that sponsors had taken corrective actions. During fiscal years 2003 and 2004, the State agency reported 352 findings for 8 sponsors and required the implementation of 144 corrective actions that would address one or more of the findings. Based on the sponsors' written replies to these reviews, we determined that the sponsors addressed only 114 corrective actions. The State agency did not thoroughly monitor the sponsors' responses, and therefore, 30 of

¹³ There was no Federal requirement for the State agency to follow in issuing their reports. We applied the same criteria to the State that FNS requires of its regional staff in issuing management evaluation (ME) reports of State agency CACFP operations. FNS ME guidance stated that timely reporting is critical and recommended that ME reports be distributed within 60 days from the completion of the ME.

¹⁴ The exact date was not always indicated on the State agency's documents so we used the last day of the month to calculate the number of elapsed days.

¹⁵ Month and year represent when the review was scheduled, but no evidence was provided that the review was actually performed.

the 144 (21 percent) corrective actions were not addressed, but the State agency still closed out the review process by notifying the sponsors that no further correspondence was required.

No trend analysis of review results

We also found that the State agency did not analyze the results of the reviews it completed in order to identify trends or systemic program weaknesses. During fiscal years 2003 and 2004, the State agency issued review reports for 8 of its 10 home sponsors. Those reports contained 352 findings, some of which were common to all eight sponsors—for example, noncompliance with meal patterns, meal counts not recorded daily, and fewer children present than normally claimed. However, the State agency did not analyze the review results to identify these widespread problems, advise the sponsors of the problems noted, and implement statewide corrective actions.

We attributed the State agency's on-site review problems to a lack of formal guidance, including the supervisor's role in the review process. According to a State agency official, they relied on its reviewers to arrange and conduct entrance and exit meetings, select provider homes to visit, write the report, and follow up on the corrective actions with little or no management oversight. That same State agency official stated that the monitoring operations were in disarray when they were re-assigned in mid-fiscal year 2004, and they have not had the time to document the State agency's review process.

At a minimum, State agency management needs to ensure that sponsor and center corrective actions are appropriate. State agency management should also document the anticipated completion dates and the status of each review phase, including sponsor visits, provider visits, report issuance, corrective actions, and closeout. Finally, State agency management needs to analyze the results of on-site reviews to detect and remedy systemic program deficiencies.

Recommendation 10

Require the State agency to establish controls to monitor the review process to ensure that all reviews are completed and issued in a timely manner, all corrective actions are taken, and review results are analyzed for statewide trends.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency had completed all scheduled reviews of daycare Centers and home sponsors for fiscal year 2005, and established timelines for timely report issuance. By June 1, 2006, the State agency will implement additional procedures to supervise the review process more closely, one of those

procedures include bi-monthly progress reports to monitor each review and ensure satisfactory completion of corrective actions. In addition, the State agency will use CLICS to automate key review findings to identify statewide trends.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency has implemented the additional procedures for timely reporting on sponsor issues and increased supervision of the entire review process.

Recommendation 11

Require the State agency to establish written review policies and procedures that describe the entire review process, including management oversight and direction of review team staff.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation and the State agency will amend its review procedures to reflect current practices and provide clarification regarding management oversight and direction of review staff. The State agency will implement their amended review procedures, which include reading on-site review reports, by March 1, 2006.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency has implemented their amended review procedures.

Finding 7

Sponsor Staffing Requirement Did Not Ensure Adequate Oversight

The monitor staffing levels at the two sponsors we reviewed were not sufficient to ensure adequate oversight of providers. This situation existed because the State agency did not assess the sponsors' monitoring staff to ensure they were conducting effective provider home visits. As a result, State agency and sponsor monitoring of providers may not identify all adverse conditions for corrective action.

In August 1999, OIG reported that sponsor monitoring of home providers was ineffective and rarely documented deficiencies that OIG found during its home visits. To correct critical weaknesses in State and sponsor oversight of CACFP,

State agencies were to ensure that their home sponsors employed an appropriate number of monitoring personnel, defined as one Full-time Equivalent (FTE) staff person for every 50 to 150 providers. FNS developed this range based on the average length of time, estimated at 15 hours annually, to perform 3 home visits per provider per year and other related monitoring duties, such as analyzing daily meal counts and attendance logs. According to sponsor officials, it takes just 20 to 30 minutes to complete a visit to one provider's home, for a total of 1.5 hours for 3 home visits annually.

However, our analysis disclosed that the amount of time the sponsors' monitors spent performing provider visits—as little as 20 minutes per visit—was not sufficient to document all program violations. Our review disclosed that 115 of the 148 (78 percent) monitoring reports completed for 40 providers did not document any program violations. (See Exhibit B.) Conversely, when we conducted a single home visit at 25 of the 40 providers, we identified at least one program violation at 18 (72 percent) of those 25 providers. (See Exhibit C.) In addition, one provider we visited had not completed its meal claim form for the past two days, but the sponsor's monitoring report dated the day before our visit did not document any program violations.

The State agency also noted program violations during its visits to providers' homes, but it did not compare those results to what the sponsors' monitors reported. The State agency visited 5 of the same 40 providers we analyzed above and documented similar program violations at 4 of those 5 providers. Although the sponsors' monitors conducted 16 home visits at those 4 providers, they did not document a single adverse condition during 12 (75 percent) of those home visits. We found that the State agency usually recommended that the sponsor take action against the noncompliant providers, but none of those recommendations affected the sponsor's monitoring staff. State agency officials stated that they reviewed the sponsors' staffing levels, but only to ensure they complied with the new FNS requirement of one FTE for every 50 to 150 provider homes sponsored.

We concluded that the sponsors did not allot enough time for effective monitoring visits at each provider home. The State agency needs to assess the sponsors' monitoring review results of provider homes in order to determine the adequacy of its monitoring process and related staffing allocations.

Recommendation 12

Require the State agency to amend its sponsor review procedures to include an assessment of the adequacy of sponsors' monitoring visits.

Agency Response.

In its response, dated October 20, 2005, FNS agreed with our recommendation even though the State agency disagreed that its review procedures lacked an

assessment of a sponsor's monitoring visit. However, the State agency agreed to increase its oversight of a sponsor's monitoring of providers by requiring sponsors to submit quarterly activity reports to adequately evaluate the ratios of monitors to providers. The State agency will implement their additional oversight of sponsors' provider visits by March 1, 2006.

OIG Position.

We accept FNS' management decision. For Final Action, FNS officials need to inform the OCFO when the State agency implements its additional oversight of sponsors' provider visits.

Finding 8

State Agency Did Not Secure Federal Funds

The State agency did not take appropriate action to secure CACFP funds from one sponsor that oversaw four home providers convicted of fraud. Due to the State agency's limited involvement and direction, it was unable to provide FNS a complete update on the status of the investigation. In addition, the State agency did not have a plan to recover over \$265,000 in misappropriated program funds from court-ordered restitutions. When we learned that part of the court-ordered restitution had already been paid but not remitted to FNS, we issued a management alert.

During our fieldwork we were informed of an ongoing investigation of one CACFP provider in Hennepin County, Minnesota. In discussions with a Hennepin County investigator, we learned that four home providers had actually been convicted of perpetrating fraud against the CACFP, and other providers were suspected of illegally obtaining CACFP funds in other Minnesota counties. We also found that part of the court-ordered restitutions from the four convicted providers had been collected by the Hennepin County court. Even though the State agency was notified of the investigation in fiscal year 2002, it did not get involved in the resolution process. Since that time, the providers were investigated, prosecuted, and ordered to pay restitutions to the sponsor. Due to the State agency's limited involvement, it was not aware that court-ordered restitutions were paid and did not have a plan to ensure those funds were remitted to FNS. State agency officials told us that they were reluctant to get involved because they did not want to interfere with the investigation.

In October 2004, OIG issued a management alert recommending that FNS work with the State agency to ensure all court-ordered restitutions of CACFP funds were remitted to FNS. We also recommended that FNS require the State agency to monitor future court-ordered restitutions and work with other Minnesota departments to ensure program integrity in Ramsey and other counties. FNS agreed with both of our recommendations and required the State agency to

(1) have all court-ordered restitutions of CACFP funds remitted to FNS' lockbox, and (2) increase oversight activity and provide a detailed plan of how the State agency will ensure program integrity in other Minnesota counties. (See exhibit D).

Because of FNS' prompt action in response to our management alert, the State acted quickly to secure the court-ordered restitutions. In its response to our recommendation, the State agency calculated that the total amount to be collected from the sponsor was \$265,347. The State agency's response also included a demand letter to the sponsor that covered the original four providers plus one other provider that was ordered to pay restitution. In addition, the State agency will verify the amounts from two other providers' cases that were pending court action. Finally, the State agency responded that once it verified the amounts for the providers already in the court system, it would turn its attention to the claims for another 23 providers that the Hennepin County investigator suspected of fraudulent activity. Although more than 10 months have passed since we issued the management alert, the State agency has not yet collected the entire \$265,347 in Federal funds or provided a detailed plan on how it will investigate those 23 providers.

The State agency issued a demand letter to the sponsor on November 30, 2004, and the sponsor filed an appeal on December 15, 2004. As of May 2005, the State agency still had not acted on the sponsor's appeal. Federal regulations¹⁶ require that the State agency's administrative review official issue a decision within 60 days of the receipt of the appeal. In July 2005, the State agency forwarded, to FNS, a partial payment received from the sponsor in the amount of \$24,906, and indicated they have not completed the administrative review process. More than 10 months have passed since we issued the management alert and the State agency has not yet collected the remaining \$240,441 in Federal funds or provided a detailed plan on how it will investigate the 23 suspected program violators.

Recommendation 13

Continue to work with the State agency to ensure the \$265,347 in Federal funds are remitted to FNS.

Agency's Response.

In its response to the management alert, dated October 21, 2004, FNS agreed with our recommendation and required the State agency to issue a demand letter to the sponsor requesting payment of \$265,347 in Federal funds. In subsequent correspondence, FNS informed OIG that the State agency received \$24,906 in restitution payments that was forwarded to FNS' lock box on July 5, 2005.

¹⁶ 7 CFR 226.6 (k)(5)(ix)

In its response to the official draft, dated October 20, 2005, FNS agreed with our recommendation and stated that it would work with the State agency to press for a speedy conclusion to their appeal process followed by rapid fiscal action to collect Federal funds, with an estimated completion date of March 1, 2010.

OIG Position.

We issued the official draft report on September 13, 2005, and included FNS' response to the management alert and our position, which stated that in order to reach management decision, as required by Department Regulation 1720-1; FNS needs to issue a bill to the State agency for the remaining \$240,441 in uncollected Federal funds. However, FNS' response to the official draft report did not address the actions required to reach management decision listed under OIG Positions. In order to reach management decision, FNS needs to provide a copy of the bill issued to the State agency for the remaining \$240,441 in uncollected Federal funds.

Recommendation 14

Require the State agency to monitor future court ordered restitution and work with other Minnesota Departments to ensure program integrity in other counties.

Agency's Response.

In its response to the management alert, dated October 21, 2004, FNS agreed with our recommendation and required the State agency to increase their oversight activity and provide a detailed plan of how they will ensure Program integrity in other Minnesota counties. In the State agency's response to FNS, dated December 1, 2004, they stated that they determined the court-ordered restitution amounts for four providers and will verify the amounts for two additional providers awaiting court action. The State agency also responded that after they complete their investigation of those six providers, they will turn their attention to the 23 suspected cases. Finally, the State agency responded that they will continue to review their internal procedures to ensure oversight responsibilities are increased.

In its response to the official draft, dated October 20, 2005, FNS agreed with our recommendation and will require the State agency to contact the Minnesota Department of Human Services and try to develop some agreement for interagency sharing of information regarding potential fraudulent activity. The State agency will require its sponsors' to inform the State of any investigations as soon as they are aware of, interviewed, or requested to provide documents to law enforcement investigators. The State agency will implement additional sponsor requirements and a system to better track all prior year recoveries and restitutions, by March 1, 2006.

OIG Position.

We issued the official draft report on September 13, 2005, and included FNS' response to the management alert and our position, which stated that FNS needs to provide a response that includes the State agency's methodology on increasing program oversight and investigating suspected providers in other Minnesota counties. However, FNS did not specifically address the 23 providers suspected of fraud in other Minnesota counties. In order to reach management decision, FNS needs to provide a response that includes the State agency's methodology and timeframe for reviewing the activity of 23 daycare home providers suspected of fraudulent activity and implementing appropriate corrective actions.

Scope and Methodology

During fiscal year 2004, the FNS Midwest region provided over \$280 million in meal reimbursements to six States, including about \$50 million to Minnesota. An additional \$20 million in State Administrative Expense funds was provided to the same six States, with about \$2.7 million claimed by Minnesota. Based on FNS concerns and our initial audit fieldwork, we conducted a separate audit titled “Controls Over the Minnesota Department of Education’s Use of Federal Funds” (Audit No. 27010-19-Ch) dated June 2005.

Our audit of the State agency’s oversight of CACFP operations was performed between September 2004 and August 2005. Fieldwork was conducted at the FNS regional office in Chicago, Illinois, and the State agency’s office in Roseville, Minnesota. Of the State agency’s over 300 centers,¹⁷ we performed a file review of its 10 highest-claiming centers as reported in the September 2004 claim file. Also, out of a total of 10 home sponsors that oversee more than 10,000 providers State-wide, we reviewed operations at 2 judgmentally selected sponsors with oversight responsibility for approximately 1,500 providers. At each of the 2 sponsors we judgmentally selected 20 providers (40 providers in total) to perform a file review and conducted home visits at 25 of those 40 providers located in and around the Minneapolis/St. Paul area.

To accomplish our audit objectives we:

- reviewed regulations, policies, and procedures governing CACFP, including the interim rule changes published by FNS in the Federal Register on June 27, 2002, and September 1, 2004;
- interviewed FNS regional officials and State agency officials to determine the controls used to monitor CACFP operations at the State agency, centers, home sponsors, and providers;
- examined records, reports, correspondence, and other documentation relating to State agency and home sponsor oversight of providers;
- analyzed meal claim data submitted by home providers and centers;
- tested the State agency’s edit checks of provider data.

This audit was conducted in accordance with generally accepted Government auditing standards.

¹⁷ The term “center,” in this context, refers to center sponsors that may include additional child care centers under one sponsorship.

Exhibit A – Summary of Monetary Results

Exhibit A – Page 1 of 1

FINDING NUMBER	DESCRIPTION	AMOUNT	CATEGORY
8	Court-ordered Restitution To Be Remitted to FNS	\$ 265,347	Questioned Costs: Recovery Recommended
TOTAL		\$ 265,347	

Exhibit B – Sponsors’ Monitoring Review Results and OIG Claims Analysis of 40 Providers from October 2003 through January 2005.

Exhibit B – Page 1 of 1

Monitor Review Results	Sponsor 1	Sponsor 2	Total	Percentage of Total Reviews COMPLETED
Review reports completed	76	72	148	-
No adverse condition noted	64	51	115	78%
Child enrollment forms not reviewed	65	64	129	87%
Number of monitoring visits when providers claimed more meals than children observed (see below)	12	17	29	20%
OIG Claims Analysis Based on Monitor Review Results				Percentage of Total Providers Selected
Number of providers that claimed more children than monitor observed	9	14	23	58%
Number of children claimed by providers	122	165	287	
Number of children observed by monitor	87	112	199	
Difference	35	53	88	

Exhibit C – Results of OIG Home Visits to 25 Providers

Exhibit C – Page 1 of 1

Provider Home Visit Results	Number of Providers			Percentage of Total Homes VISITED
	Sponsor 1 (12 Providers)	Sponsor 2 (13 Providers)	Total	
Less than 3 shifts for each meal service	11	13	24	96%
<u>Providers with children missing</u> (Number of children enrolled but not present)	<u>10</u> (33)	<u>12</u> (71)	<u>22</u> (104)	88%
At least one adverse condition noted	7	11	18	76%
Enrollment greater than licensed capacity	4	7	11	44%
In/Out times not recorded	1	7	8	32%
Meal claim forms not current	2	6	8	32%
Day care home over licensed capacity	4	0	4	16%
Claim forms completed before meal served	1	0	1	4%

Exhibit D – Agency Response to the Management Alert

Exhibit D – Page 1 of 4



**United States
Department of
Agriculture**

Food and
Nutrition
Service

Midwest Region

77 W. Jackson Blvd.
20th Floor
Chicago, IL
60604-3591

October 21, 2004

Mr. Edward Krivus, Regional Director of Audit
Office of the Inspector General
Midwest Region
111 North Canal Street, Suite 1130
Chicago, Illinois 60606-7295

Dear Mr. Krivus:

We reference the Management Alert letter entitled, "Monitoring of CACFP Providers in Minnesota," Audit No. 27010-0018-Ch. We address recommendation numbers 1 and 2.

Recommendation 1: Work with the State Agency to ensure all court ordered restitution of CACFP funds are remitted to FNS.

FNS agrees with this recommendation. The Midwest Regional Office is requiring the State Agency (SA) to have the court ordered restitution of CACFP funds remitted to the Sponsor who will in turn remit these funds to the SA. The SA then will remit these funds to FNS' lock box as evidenced in our attached letter of instructions to the SA for this recommendation.

The procedure in which these funds are being remitted to FNS is in accordance with our regulations as stated in Section 226.14.

We are requesting that once the SA notifies the sponsor of it duties to collect and remit the court order restitution from the court to the SA that USDA's Office of Inspector General notify the court that it may release those funds to the sponsor, Minnesota Licensed Family Child Care Association, Inc..

Recommendation 2: Require the SA to monitor future court ordered restitution and work with other Minnesota Departments to ensure Program integrity in Ramsey and other counties.

FNS agrees with this recommendation. The Midwest Regional Office is requiring the State Agency (SA) to monitor future court ordered restitution of CACFP funds and work with other Minnesota Departments to ensure Program integrity in Ramsey and other counties per our attached letter of instructions to the SA for this recommendation.

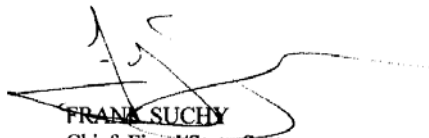
USDA IS AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER

Exhibit D – Continued

Exhibit D – Page 2 of 4

If you should have any questions or if I may be of further assistance, please don't hesitate to call me at (312) 353-8239.

Sincerely,



FRANK SUCHY
Chief, Fiscal/State Systems
Financial Management

CC: Liza Cowden, Acting Regional Director, SNP

Exhibit D – Continued

Exhibit D – Page 3 of 4



OCT 25 2004

**United States
Department of
Agriculture**

**Food and
Nutrition
Service**

Midwest Region

77 W. Jackson Blvd.
20th Floor
Chicago, IL
60604-3511

Ms. Alice Seagren, Commissioner
Minnesota Department of Education
1500 Highway 36 West
Roseville, MN 55113-4266

SA 3-2: 27010-0018-Ch(1)

Dear Ms. Seagren:

The Hennepin County Attorney's Office has been conducting an investigation of multiple providers under the sponsorship of Minnesota Licensed Family Child Care Association, Inc. (MLFCCA) – Minnesota Provider Nutrition Network. To our knowledge, at least four providers have improperly received USDA Child and Adult Care Food Program (CACFP) funds over a multiple year period.

The State agency must work with the Hennepin County Attorney's Office and MLFCCA to verify the total dollar amount of the CACFP overclaim (including all day care home meal reimbursement funds and administrative payments) that was improperly received. Improperly paid CACFP funds must be returned to the USDA Food and Nutrition Service (FNS).

The State agency must then follow the CACFP regulatory requirements at 7 CFR Part 226.14 and issue a single, written demand letter to MLFCCA to recover all CACFP funds that were improperly received. Your office has the option of offering a repayment plan to MLFCCA, however, interest must be charged for any amount not collected within 30 days. Appeal rights must be provided to MLFCCA with the demand letter per 7 CFR Part 226.6(k)(2)(xi). Please issue the demand letter to MLFCCA within 30 days of the date of this letter. We would appreciate receiving a copy of the letter.

A portion of the improperly received funds are currently "frozen" in an account that could eventually be accessed by MLFCCA. Unless MLFCCA appeals the demand for repayment, our expectation is that these "frozen" funds would be immediately returned to the State agency. These "frozen" funds are not eligible for a repayment plan option.

All improperly received Program funds returned by MLFCCA to the State agency must be sent to FNS at the address below. Your payment, via check, should be sent within 10 days of receipt. Please make the check payable to USDA-FNS and include a brief description concerning the payment (sponsor name, provider name(s), dollar amount(s), fiscal year(s)). Please send a copy to the attention of Marva Mosley, Director, Financial Management, Midwest Regional Office (MWRO).

USDA-FNS-HQ
P.O. Box 953807
St. Louis, MO 63195-3807

AN EQUAL OPPORTUNITY EMPLOYER

Exhibit D - continued

Exhibit D – Page 4 of 4

Program funds (administrative or day care home meal reimbursement money) can not be used to "pay" for the overclaim identified. Therefore, no current or future claims for reimbursement to the sponsor can be "offset" by the State agency. In addition, the sponsor may not request that providers "donate" funds or give up a portion of their meal reimbursement money in order to repay the identified overclaim.

FNS reserves the right to collect improperly paid Program funds directly from the State agency if FNS believes the State agency has failed to exert reasonable efforts to recover the improper payment.

In connection with the MLFCCA Investigation, in May 2004, the USDA Office of Inspector General (OIG) was advised by the Hennepin County Attorney's Office that approximately 23 day care centers in Ramsey county are also committing CACFP fraud. We are asking your office to investigate this matter. The Hennepin County Attorney's Office has also informed OIG that two other providers under MLFCCA will soon be charged for fraudulently obtaining an additional \$172,132 in CACFP funds. Improperly paid CACFP funds must be returned to FNS.

The current level of State agency oversight activity must be increased. The State agency must monitor future court ordered restitution and work with other Minnesota Departments to ensure Program integrity in Ramsey and other counties. Please provide a detailed description of your plan to address this issue.

In addition, please provide an update to the April 27, 2004 correspondence from Karen Carlson to Theresa Bowman regarding MLFCCA. This should include an update on: 1) The status of the report for MLFCCA corresponding to the State agency review conducted in March/April 2004. Please send a copy to us as soon as it is available and notify our office of any plans to declare MLFCCA seriously deficient in the administration of the CACFP. 2) A list of providers who have been declared seriously deficient, proposed for termination and/or terminated (include debt owed) by MLFCCA as a result of the Hennepin County Attorney's Investigation.

We look forward to receiving the above information from you and will work with your office as we both strive to ensure that Program integrity is maintained in the CACFP. If you have any questions, please feel free to contact me at 312/353-6664 or Dick Gilbert, Acting Regional Director, Special Nutrition Programs, MWRO at 312/353-3089.

Sincerely,



ELLICE C. HOLDEN
Regional Administrator

cc: Becky Leschner, Dir., MN SA
bcc: Stanley C. Garnett, Dir., AVA
Marva Mosley, Dir., FM

Exhibit E – Agency Response to the Report

Exhibit E – Page 1 of 9



**United States
Department
of
Agriculture**

Food and
Nutrition
Service

Midwest Region

77 W. Jackson Blvd.
20th Floor
Chicago, IL
60604-3591

October 20, 2005

Mr. Edward R. Krivus, Regional Inspector General
Office of Inspector General
Midwest Regional Office
111 North Canal Street, Suite 1130
Chicago, Illinois 60606-1130

Dear Mr. Krivus:

We have received the official draft audit report entitled "Monitoring of CACFP Providers in Minnesota", number 27010-0018-Ch. Each recommendation is addressed below.

Recommendation 1

Require the State agency to provide FNS with their procedures and timeframes for implementing the new edit check.

FNS agrees with this recommendation.

The State has responded that they have notified their institutions of the new requirements and provisions of the second interim rule and the need for the implementation of the required edit checks within their systems. Additionally, they are monitoring the implementation of institutions by reviewing their management plans as well as through on-site reviews.

On the state level, as noted in the Audit Report, the State is not receiving data from the sponsors that will allow all the needed edit checks to be performed. The state will revise their applications and data collection system to provide the data necessary for these edit checks. The completion of the above revision to CLICS provider applications will be June 1, 2006. Based upon additional data submitted by provider interface, completion of implementation of the new edit checks in the CLICS system will be October 1, 2006.

Estimated completion date: October 1, 2006

Exhibit E – Agency Response to the Report

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Recommendation 2

Require the State agency to establish reasonable limits for the existing edit checks in CLICS.

FNS agrees with this recommendation.

The State has revised the existing edit checks as follows:

Number of days served: 31 days, until programming can be implemented to limit this further to the actual number of days in the month. Additionally, the State plans to create monthly reports from the system for providers with the number of days served exceeding 24. These will be provided to the sponsors for their verification and approval.

Average Daily Attendance: 25-30. The State plans to create reports that will identify providers who seem to have a high average daily attendance and ask sponsors to verify that information. Parent contacts may also be used in certain circumstances.

Completion Date: October 1, 2005

The State has reported that they are in the process of better documenting the CLICS system, including the preparation of a data dictionary. These improvements along with the additional data collected from the provider's applications should allow them to perform better analyses of the claim data to ensure program integrity.

Estimated Completion Date: March 1, 2006

Recommendation 3

Require the State agency to establish procedures to retain and use CLICS data to identify trends and implement appropriate follow-up and corrective actions.

FNS agrees with this recommendation.

The State agency will conduct data analyses of monthly provider claims to identify possible fraudulent activity or trends that require further validation. Those results will be presented to each sponsoring organization with direction to follow-up, including parent contacts, if necessary. Sponsors will be required to provide written response to the State agency and edit claims as indicated.

Estimated Completion Date: March 1, 2006

Exhibit E – Agency Response to the Report

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Over the next two years, the State will be working to improve documentation and report generation of CLICS data. The State has already begun the process of rebuilding the database structure to take advantage of several database design improvements from recent years. When fully developed, the database will allow the State to see each provider's daily claim. Additionally, OIG's concern that the data is lost when overwritten by new data will be addressed in the system, with a record of every change.

Estimated Completion Date: October 1, 2007

Recommendation 4

Require the State agency to monitor its home sponsors to ensure that they implement the required elements of the new block claim edit check process, which must include an unannounced visit to the provider's home within 60 days of identifying a block claim.

FNS agrees with this recommendation.

The Minnesota Department of Education's 2006 management plan checklist for family child care home provider (FCCH) sponsors was amended to require disclosure of their procedures in the treatment of edit checks and block claims. Sponsors' responses must meet the minimum requirements before the management plan is considered complete and approved.

The State agency has stated that they provided information, training and other technical assistance on accurate USDA meal counts to sponsors concerning these requirements. They have provided written information related to block claiming on 4 occasions between October 2004 and July 2005. Our office will obtain and review the adequacy of those communications. Additionally, the State provided training to family childcare home provider sponsors that addressed block claim edit checks in January of 2005. A number of other trainings have included the issue of block claiming and will continue to include this topic in future training.

The State Agency has been monitoring the block claim edit check since September, 2004 in reviewing FCCH sponsor claims through the provider file review. They are now monitoring for whether the FCCH sponsors are monitoring for block claims and following through with unannounced home visits within 60 days. The findings and corrective actions will be documented in the FCCH sponsor's monitoring report.

Estimated Completion Date: January 1, 2006

Exhibit E – Agency Response to the Report

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Recommendation 5

Require the State agency to develop and implement a written policy for its serious deficiency process for its sponsors to follow that, at a minimum, provides examples that would result in a serious deficiency declaration.

FNS agrees with this recommendation.

The State agency has drafted revised serious deficiency procedures for new and renewing sponsors as well as for participating institutions. The State has requested FCCH Sponsors to submit specific criteria for declaring providers serious deficient by December 15, 2005. The State will review the FCCH sponsors recommendations and prepare State criteria for sponsors to use in determining whether a provider is to be declared serious deficient. A final written policy for sponsors to follow in declaring providers serious deficient will be implemented by January 30, 2006.

Estimated Completion Date: March 1, 2006

Recommendation 6

Require the State agency to assess its sponsors' implementation and use of the new serious deficiency process.

FNS agrees with this recommendation.

The State agency will assess the FCCH sponsor's implementation of their serious deficiency process and the use of the State agency's criteria for determining serious deficiency through the regular review process. The assessment will be documented in the working papers for each review.

Estimated Completion Date: March 1, 2006

Recommendation 7

Require the State agency to review all sponsors' outside employment policies, written compensation plans, and professional service contracts, to ensure they address and disclose conflict-of-interest, with all affiliates (employees, contractors, and board members) of the organization.

FNS agrees with this recommendation.

Exhibit E – Agency Response to the Report

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The State agency has amended the management plan of each sponsoring organization to require the disclosure of their outside employment policy. They are being reviewed as each sponsors' application is being processed. Additionally, adherence to the policy will be verified during the regular monitoring of the sponsoring organizations and documented in the working papers. As part of the management plan, sponsors will include information on compensation plans and list out any professional service contracts. Review of this information is a part of the State's on-site monitoring process.

Estimated Completion Date: March 1, 2006

Recommendation 8

Require the State agency to review all sponsors' current board members to ensure that a majority are individuals from the community with no financial interest in the board's activities and are otherwise independent and accountable.

FNS disagrees with this recommendation as written.

We discussed this in length during the exit conference as well during our discussion draft meeting. FNS cannot require the State agency to undertake an action that is not required by the 7 CFR 226 regulations. Specifically, the regulations do not address board member composition. In addition, Minnesota statutes do not prohibit or otherwise limit those individuals with a financial interest from serving on the governing board of nonprofit organizations.

The State agency has strengthened the sponsoring organizations application process by adding additional elements to the management plan requesting detailed information on the organizations' governing board composition and have reviewed those relationships. In addition, the State agency has made recommendations regarding governing board composition to their sponsoring organizations. Some sponsoring organizations have taken action to implement their recommendations.

FNS will require the State agency to implement our regulatory requirement at Section 226.6(b)(2)(vii)(C)(1) which says that nonprofit organizations must have boards of directors that provide "adequate oversight of the Program", and demonstrate how they are evaluating the sponsoring organizations' boards of directors "adequate oversight of the Program", which includes independent oversight, conflict-of-interest, and less-than-arms-length transactions.

Exhibit E – Agency Response to the Report

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Recommendation 9

Require the State agency to amend its household contact policy to include parental contact as a method of verifying the attendance and enrollment of participating children during its monitoring of sponsors and its providers.

FNS agrees with this recommendation.

The State agency established procedures for household contacts to verify the attendance of enrolled children for both the agency and the sponsoring organizations in March, 2005.

The procedures indicate that household contacts are to be used when the monitor finds cause during a sponsor or provider review to verify that meals claimed were served to children enrolled and in attendance. This provision applies whether the monitor is a State monitor or a sponsor monitor. The household contact procedures will be amended, as required, to more clearly delineate the State agency's use of the household contact procedures during reviews and conformity to the second interim rules.

Estimated Completion Date: March 1, 2006

Recommendation 10

Require the State agency to establish controls to monitor the review process to ensure that all reviews are completed and issued in a timely manner, all corrective actions are taken, and review results are analyzed for statewide trends.

FNS agrees with this recommendation.

The State agency reported that in 2004-05, all scheduled reviews for CACFP centers and FCCH sponsors were completed in compliance with Federal regulations 7CFR 226.6(m)(4)(i). The State agency has established processes for review selection, assignments, procedures, report preparation, supervision and closeouts of each review. Timelines have been established for timely report issuance.

In order to supervise the review process more closely, bimonthly progress reports with the supervisor and reviewing staff were instituted in October 2005. The primary basis of these meetings is to monitor the progress of each review and ensure satisfactory completion of corrective actions has been documented before review close-out. The State agency will develop a more automated process, within an expanded CLICS, for tracking key review findings to identify statewide trends.

Exhibit E – Agency Response to the Report

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Estimated Completion Date: June 1, 2006

Recommendation 11

Require the State agency to establish written review policies and procedures that describe the entire review process, including management oversight and direction of review team staff.

FNS agrees with this recommendation.

The State agency has established review procedures that will be updated to reflect current review practices and provide clarification regarding management oversight and direction of the review team staff. Review reports will be read by management staff to assure quality.

Estimated Completion Date: March 1, 2006

Recommendation 12

Require the State agency to amend its sponsor review procedures to include an assessment of the adequacy of sponsors' monitoring visits.

FNS agrees with this recommendation.

Currently, the State agency review procedures require an assessment of the adequacy of sponsors' monitoring visits by:

- Comparing the number and type of findings identified during the State agency visits to the number and type of findings identified on sponsoring organization monitoring visits. Corrective action is required if State agency findings are significantly higher than findings identified on sponsoring organization visits.
- Reviewing sponsor monitoring documentation and sponsor oversight of monitoring records to ensure adequate oversight of sponsor monitors and providers.
- Examining the length of sponsor monitor reviews and other monitoring records to ensure the sponsor is performing monitoring and meeting staffing ratios as approved in the sponsor management plan.

Exhibit E – Agency Response to the Report

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In addition, the State agency will increase oversight of monitoring by requiring sponsors to submit quarterly activity reports to the State agency which include information, such as: number of monitors employed; number of monitoring visits conducted, number and types of findings identified; number of corrective action plans issued; number of each type of meal visit conducted; number and type of deductions made; and number of repeat findings.

The State believes this will allow them to more adequately evaluate whether sufficient provider/monitor ratios exist and to identify statewide trends that will be useful in improving the integrity of the program. In addition, the State agency will amend its FCCH sponsor review procedures to accompany sponsor monitors on a percentage of home visits.

Estimated Completion Date: March 1, 2006

Recommendation 13

Continue to work with the State agency to ensure the \$265,347 in Federal funds are remitted to FNS.

FNS agrees with this recommendation.

We will work with the State to press for a speedy conclusion to their appeal process followed by rapid fiscal action to collect Federal funds.

Estimated Completion Date: March 1, 2010

Recommendation 14

Require the State agency to monitor future court ordered restitution and work with other Minnesota Departments to ensure program integrity in other counties.

FNS agrees with this recommendation.

The State agency has modified the management plan for sponsors. New instructions make clear that sponsors must inform the State of any investigations as soon as they are aware of, interviewed or requested to provide documents to law enforcement investigators.

Exhibit E – Agency Response to the Report

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In Minnesota, restitution amounts are set by the court and restitution schedules are set by the probation department of the county. Payments are made to the county, which in turn processes the restitution amount, and forwards it to the sponsor of record in the court document. The sponsor must then forward the funds to MDE, who will then forward funds to USDA.

The State agency has designed and is in the process of creating a system that will better track all prior year recoveries, including restitutions.

Additionally, we will require the State agency to contact the Minnesota Department of Human Services and try to develop some agreement for interagency sharing of information regarding potential fraudulent activity.

Estimated Completion Date: March 1, 2006

Enclosed is a copy of the State agency's response to the draft audit report. Some additional information contained in this letter was obtained from State officials during discussions.

If you have any questions or concerns, please contact Dick Gilbert at 312.353.3089.

Sincerely,

A handwritten signature in black ink, reading "Elvira Jarka". The signature is written in a cursive style. To the right of the signature is a vertical red line.

ELVIRA JARKA
Regional Director
Special Nutrition Programs

cc: Frank Suchy, MWFM
Leo Dohogne, MWFM

Informational copies of this report have been distributed to:

Agency Liaison Officer	(3)
General Accountability Office	(1)
Office of Management and Budget	(1)
Office of the Chief Financial Officer	
Director, Planning and Accountability Division	(1)